

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DAVID WHITT,

PLAINTIFF,

v.

CITY OF ST. LOUIS, et al.,

DEFENDANT.

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Case No. 4:18-CV-01294

MOTION TO DISMISS COUNT II
BY DEFENDANTS LINHORST, KARNOWSKI, AND SHAW

COME NOW Defendants Officer Ryan J. Linhorst, Sergeant Matthew T. Karnowski, and Officer Matthew A. Shaw (“Defendants”), through counsel, and moves this Court to dismiss this action against them for failure to state a claim upon which relief can be granted under Federal Rule of Civil Procedure 12(b)(6). In support, Defendants state the following:

1. Plaintiff fails to state a claim in Count II against Defendants upon which Plaintiff may obtain relief from this Court or any other. Fed. R. Civ. P. 12(b)(6).
2. Taking Plaintiff’s allegations against Defendants as true, and construing those allegations in a light most favorable to Plaintiff, Plaintiff still fails to sufficiently allege facts entitling Plaintiff to relief. *Kottschade v. City of Rochester*, 319 F.3d 1038, 1040 (8th Cir. 2003).
3. Defendants submit herewith a memorandum in support of their motion, which sets out the relevant arguments and citations to authority on which Defendants rely.

WHEREFORE, Defendants Officer Ryan J. Linhorst, Sergeant Matthew T. Karnowski, and Officer Matthew A. Shaw pray the Court grant their Motion to Dismiss for Failure to State a Claim with prejudice, and for any further relief the Court deems just and reasonable.

Respectfully Submitted,

JULIAN BUSH
CITY COUNSELOR

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CERTIFICATE OF SERVICE

I hereby certify the foregoing was electronically filed on September 14, 2018 with the Court for service by means of Notice of Electronic Filing upon all attorneys of record.

/s/ Abby Duncan